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5	WILLENKEN WILSON LOH & DELG 707 Wilshire Blvd., Suite 3850	
6	Los Angeles, California 90017	CLERK, U.S. DISTRICT COURT
7	Telephone: (213) 955-9240	DEC 12 2012
8	Facsimile: (213) 955-9250	
9	Attorneys for Defendant	CENTRAL DISTRICT OF CALIFORNIA DEPUTY
10	MICROSOFT CORPORATION	A COLL
11	UNITED STATES	DISTRICT COURT
12		CT OF CALIFORNIA
13	CEIVII DISTIN	·
		Case CV 12-10641 (FO)
14	ANDREW SOKOLOWSKI, an individual, on behalf of himself and all	Case No.:
15	others similarly situated,	(LASC Case No. BC495538)
16		
17	Plaintiff,	NOTICE OF REMOVAL OF
18	V.	ACTION PURSUANT TO 28 U.S.C. § 1446
19		
20	MICROSOFT CORPORATION; and DOES 1-100, inclusive,	
21	TO 0 1	
22	Defendants.	·
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6. Plaintiff alleges the Surface RT "uses the Windows RT operating system," and comes in two versions, "one of which Microsoft represents as having

purpose computer contained in a single panel which typically uses a touch screen

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as the input device." *Id.* ¶ 14.

Plaintiff alleges "Microsoft knows but conceals and fails to disclose in

its advertising, marketing or promotional materials, that the Windows RT

operating system consumes approximately 16 GB of the represented storage capacity of the Surface RT tablets and that those 16 GB are not . . . storage space

that the consumer can actually use to store files after purchase." Compl. ¶ 18.

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- 8. Plaintiff alleges Microsoft's failure to disclose the Windows RT operating system's use of 16 GB of storage capacity is a "false, deceptive and misleading practice in connection with marketing, selling, and distributing the Surface RT tablets." Compl. ¶ 17. He alleges Microsoft misrepresents the storage capacity of both versions of the Surface RT in its "advertising, marketing, and promotional materials, including Microsoft's internet website, product packaging, and product displays." *Id*.
- 9. Plaintiff alleges the only disclosure on Microsoft's Web site "regarding storage capacity" says "formatted storage capacity may be less." Compl. ¶ 17.
- 10. Plaintiff further alleges the 32 GB Surface "retails for approximately \$499, or \$599 if purchased with a cover with integrated 'touch' keyboard," and the 64 GB Surface "retails for approximately \$699 with the integrated keyboard." Compl. ¶ 15.
- Plaintiff claims Microsoft's alleged conduct described above in paragraphs 7-9 violates: (1) the California Consumers Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1750 et seq. (Count I), Compl. ¶¶ 37-46; (2) California Business and Professions Code § 17500 et seq. (Count II), Compl. ¶¶ 47-57; and (3) California Business and Professions Code § 17200, et seq. (Count III), Compl. ¶¶ 58-75.

- 12. Plaintiff seeks: (1) an Order "enjoining defendants from engaging in the practices complained of and alleged herein"; (2) "restitution of all revenues, earnings, compensation and benefits obtained as a result of Defendant's wrongful conduct"; (3) prejudgment interest; (4) attorneys' fees, costs, and expenses; (5) "any other injunctive or declaratory relief as is necessary to protect the interests of the Plaintiff and the Class"; and (6) "any other relief the Court deems just and proper." Compl. at Prayer For Relief.
- 13. Plaintiff alleges: "This is a civil action by Plaintiff, on behalf of himself and all other people in the State of California who purchased from Defendant a Microsoft Surface tablet computer running the Windows RT operating system (the 'Class') during the period beginning four years before the filing of this complaint until the time of class certification (the 'Class Period')." Compl. ¶ 1.
- 14. Plaintiff seeks to litigate his claims on behalf of himself and a proposed statewide class defined as follows: "All persons or entities in the State of California who purchased Microsoft Surface tablet computers running the Windows RT operating system for purposes other than resale or distribution at any time within the four years preceding the filing of this Complaint." Compl. ¶ 24.
- 15. Plaintiff further seeks to litigate his claims on behalf of himself and a proposed statewide CLRA subclass defined as follows: "All persons in the State of California who purchased Microsoft Surface tablet computers running the Windows RT operating system for personal, family or household use within the four years preceding the filing of this Complaint." Compl. ¶ 25.
- 16. Plaintiff alleges "the number of class members is great, believed to be hundreds of consumers located throughout the State of California." Compl. ¶ 27.
- 17. As demonstrated below, this Court has jurisdiction over Plaintiff's action and it is properly removed to this Court.

# BASIS OF FEDERAL JURISDICTION UNDER <u>CLASS ACTION FAIRNESS ACT</u>

- 18. This action is removable to this Court because federal diversity jurisdiction under 28 U.S.C. § 1332 exists over Plaintiff's claims under the Class Action Fairness Act of 2005, Pub. L. 109-2, 119 Stat. 4 (2005) ("CAFA"), codified in various sections of Title 28 of the United States Code including 28 U.S.C. §§ 1332(d) & 1453.
- 19. Congress enacted CAFA to enlarge federal jurisdiction over proposed class actions. CAFA provides that a class action against a non-governmental entity may be removed to federal court if: (1) the aggregate amount in controversy exceeds \$5 million, exclusive of interest and costs; (2) any member of the proposed plaintiff class is a citizen of a state different from any defendant; and (3) the number of proposed class members is not less than 100. As set forth below, all the requirements for removal are met here. See 28 U.S.C. §§ 1332(d)(2), (d)(5), (d)(6) & 1453(b).

### **Amount-In-Controversy Requirement**

- 20. CAFA's first requirement, that the aggregate amount in controversy exceeds \$5 million, exclusive of interest and costs, 28 U.S.C. § 1332(d)(2), is met here.
- 21. Although Microsoft disputes liability and restitution, it is evident that Plaintiff purports to seek for himself and the proposed class restitution that if granted would, in the aggregate, exceed CAFA's \$5 million threshold, exclusive of interest and costs.
- 22. Indeed, the \$5 million threshold is met even if the Court considers only a portion of the relief Plaintiff seeks in Counts II and III.
- 23. In both Counts II and III, Plaintiff seeks "restitution of the money wrongfully acquired by Defendant in connection with the false and misleading advertising described [in the Complaint]." Compl. ¶¶ 57, 75. Counts II and III

- to show there is more than \$5 million in controversy here, Microsoft used 3,000 units each for sales of the 32 GB Surface RT, 32 GB bundle, and 64 GB bundle, though the actual number of units sold to customers in California for each model is substantially higher.
- through December 6, 2012, Microsoft sold more than 3,000 units of the 32 GB Surface RT (exclusive of a cover and accessories) to customers in California. These sales were made through Microsoft's Web site and at Microsoft stores in California. Roedell Decl. ¶ 14. At \$499 each, Compl. ¶ 15, 3,000 sales resulted in revenue of \$1,497,000. If Microsoft included all units of the 32 GB Surface RT (exclusive of a cover and accessories) sold to customers in California, the actual revenue reported here would be substantially higher. Roedell Decl. ¶ 15. Microsoft is stating that it sold at least 3,000 units of the 32 GB Surface RT for purposes of this Notice of Removal, rather than the actual number of units sold, which although higher is confidential commercial information, of competitive value, that Microsoft has not released publicly. Roedell Decl. ¶ 16.
- through December 6, 2012, Microsoft sold more than 3,000 32 GB Surface RT bundles (the 32 GB Surface RT and a cover sold together) to customers in California. These sales were made through Microsoft's Web site and at Microsoft stores in California. Roedell Decl. ¶ 14. At \$599 per bundle, Compl. ¶ 15, 3,000 sales resulted in revenue of \$1,797,000. If Microsoft included all 32 GB Surface RT bundles sold to customers in California, the actual revenue reported here would be substantially higher. Roedell Decl. ¶ 15. Microsoft is stating that it sold at least 3,000 32 GB Surface RT bundles for purposes of this Notice of Removal, rather than the actual number of bundles sold, which although higher is confidential commercial information, of competitive value, that Microsoft has not released publicly. Roedell Decl. ¶ 16.

31.

through December 6, 2012, Microsoft sold more than 3,000 64 GB Surface RT bundles (the 64 GB Surface RT and a cover sold together) to customers in California These sales were made through Microsoft's Web site and at Microsoft stores in California. Roedell Decl. ¶ 14. At \$699 per bundle, Compl. ¶ 15, 3,000 sales resulted in revenue of \$2,097,000. If Microsoft included all 64 GB Surface RT bundles sold to customers in California, the actual revenue reported here would be substantially higher. Roedell Decl. ¶ 15. Microsoft is stating that it sold at least 3,000 64 GB Surface RT bundles for purposes of this Notice of Removal, rather than the actual number of bundles sold, which although higher is confidential commercial information, of competitive value, that Microsoft has not released publicly. Roedell Decl. ¶ 16.

Microsoft's business records reflect that from October 26, 2012

- 32. Therefore, Microsoft's sales of Surface RT devices in California resulted in revenue, at a minimum, of at least \$5,391,000 (\$1,497,000 + \$1,797,000 + \$2,097,000). This number alone exceeds CAFA's \$5 million dollar amount-in-controversy requirement. Were Microsoft to report the actual California sales of the 32 GB Surface RT, 32 GB bundle, and 64 GB bundle, rather than 3,000 units of each model, this number would be substantially higher. The amount in controversy increases daily as more Surface RT units are sold in California. Roedell Decl. ¶ 17.
- 33. Were Microsoft to include the sales of accessories, such as sleeves, privacy screen protectors, VGA adaptors, HD digital AV adapters, Type Covers, and Touch Covers for the Surface RT in California, the amount in controversy would be even higher. Roedell Decl. ¶ 18.
- 34. Plaintiff also seeks attorneys' fees. Compl. at Prayer for Relief. Attorneys' fees may be included in calculating the amount in controversy. *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998); *see also Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 700 (9th Cir. 2007).

- 1 35. In the Ninth Circuit, 25% of compensatory damages is a fair estimate 2 of attorneys' fees in a class action. Molnar v. 1-800-Flowers.com, Inc., No. CV08-3 0542CAS (JCX), 2009 WL 481618, at \*5 (C.D. Cal. Feb. 23, 2009) (citing Staton 4 v. Boeing Co., 327 F.3d 938, 967 (9th Cir. 2003)). An award of attorney's fees 5 equal to 25% of the total restitutionary relief sought for only 3,000 units of each 6 model of Surface RT (i.e., 32 GB Surface RT, 32 GB bundle, and 64 GB bundle) at 7 the prices alleged by Plaintiff increases the amount in controversy to \$6,738,750 8 (1.25 x \$5,391,000). 9 36. Plaintiff also seeks an order "enjoining defendants from engaging in 10 the practices complained of and alleged herein." Compl. at Prayer for Relief. 11 "The cost of . . . the injunction against defendant must be included when determining the amount in controversy." Lyon v. W.W. Grainger Inc., No. C 10-12 13 00884 WHA, 2010 WL 1753194, at \*2 (N.D. Cal. Apr. 29, 2010) (citing In re 14 Ford Motor Co., 264 F.3d 952, 959 (9th Cir. 2001)). Were Microsoft to include 15 this cost, the amount in controversy would be higher.
  - 37. Microsoft has therefore established by a preponderance of the evidence CAFA's minimum amount in controversy of more than \$5 million, exclusive of interest and costs, is satisfied. See, e.g., Lewis v. Verizon Commc'ns, Inc., 627 F.3d 395, 397 (9th Cir. 2010) (defendant established amount in controversy by affidavit stating only that affiant had reviewed business records and "potential damages could exceed the jurisdictional amount"); Ray v. Wells Fargo Bank, N.A., No. 11-01477, 2011 WL 1790123, at \*6 (C.D. Cal. May 9, 2011) (defendant established amount in controversy by declaration on personal knowledge obtained in his normal business responsibilities and review of defendant's business records).

### **Minimal Diversity of Citizenship**

38. CAFA's second requirement, that any one member of the proposed class be a citizen of a state different from any defendant, 28 U.S.C. § 1332(d)(2), is

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1	also met here. Plaintiff alleges he resides in California. Compl. ¶ 7. Accordingly
2	he is a citizen of California.
3	39. Plaintiff further alleges Microsoft "is a corporation organized under
4	the laws of the State of Washington with its headquarters at One Microsoft Way,
5	Redmond, Washington." Compl. ¶ 9. Accordingly, Microsoft is a citizen of
6	Washington, and diversity of citizenship exists between at least one proposed class
7	member and Defendant, satisfying 28 U.S.C. § 1332(d)(2).
8	40. The complete diversity between the named Plaintiff and Microsoft no
9	only satisfies the minimal diversity-of-citizenship requirement under CAFA, but
10	also precludes the "local controversy" or "home state" exceptions in 28 U.S.C.
11	§ 1332(d)(3) and § 1332(d)(4).
12	Proposed Class Size
13	41. CAFA's third requirement, that the proposed class contain at least 100
14	members, 28 U.S.C. § 1332(d)(5), is met here as well.
15	42. Plaintiff alleges "the number of class members is great, believed to be
16	hundreds of consumers located throughout the State of California." Compl. ¶ 27.
17	As shown above in paragraphs 29-31, Microsoft has sold, at a minimum, at least
18	9,000 units of the Surface RT to customers in California, substantially more than
.19	the minimum 100 class members required under CAFA.
20	43. Plaintiff thus alleges a potential class with at least 100 members.
21	44. For all the foregoing reasons, this action is properly removed to this
22	Court under CAFA.
23	Respectfully submitted,
24	Dated: December 12, 2012 WILLENKEN WILSON LOH &
25	DELGADO LLP.
26	By:
27	William A. Delgado
28	Attorneys for Defendant MICROSOFT CORPORATION

## EXHIBIT A

SUMM	MONS
(CITACION	JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

MICROSOFT CORPORATION; and DOES 1-100, inclusive;

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

ANDREW SOKOLOWSKI, an individual, on behalf of himself and all others similarly situated,

SUM-100

FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE)

CONFORMED COPY ORIGINAL FILED SUPERIOR COUNTY OF LOS ANGELES COUNTY OF LOS ANGELES

NOV 13 2012

John A. Clarko, Exceptive Officer/Clerk

CASE NUMBER: C 49 5538

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/sellhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you'do not file your response on time, you may lose the case by default, and your wages, money; and property. may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service: If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawfrelpcalifornia.org), the California Courts Online Self-Help Center (www.courlinfo.ca:gov/selfheip), or by contacting your local court or county bar association. NOTE: The court has a statutory tien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case; The court's lien must be paid before the court will dismiss the case. IAVISOI Lo han demandado. Si no responde dentro de 30 días, la corte puede décidir en su contra sin escuchar su versión. Lea la información a

Tiene 30 DIAS DE CALENDARIO después de que le entreguen este citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Ceratro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerça. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podra quitar su sueldo, dinero y bienes sin mas advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que curnpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal: Services, (www.lawhelpcallifomia.org); en el Centro de Ayuda:de las Cortes de Callifornia, (www.sucorte.ca.gov) o poniendose en contacto con la corte o el colegio de abogados locales: AVISO: Por ley, la corte liene derecho a:reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: (El nombre y dirección de la corte es):

Stanley Mosk Courthouse, Central District; 111 North Hill Street, Los

Angeles, California 90012

The name, address, and telephone number of plaintiff's attorney; or plaintiff without an attorney; is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no liene abogado, es):

Rhett T. Francisco 5350 Topanga Canyon Blvd. Woodland Hills CA 91364 (818) 319-9879

DATE:		and a successful of	Clerk, by (Secretano)	Mary Flores	, Deputy (Adjuntō)
(For pro	oof:of service of this su	AND STARKE VICE OF	of Summons (form POS-0	10).)	
(Para:p	rueba de entrega de es	sta citatión use el formulario P	roof of Service of Summo	ns, (FOS-V.W)).	
	<u> </u>	NOTICE TO THE PERSON	I SERVED: You, are serve	ed:	
(SEAL)	•	1 as an individual de	efendant.		•
ŀ		2. as the person sue	d under the fictitious name	e of (specify).	, ·
	,	3. on behalf of (spec	ify): Microsoft Corporation	on .	·
1.	• .	under: S GCP 416 CCP 416 GCP 416	.10"(comporation)' .20"(defunct corporation) .40"(as sociation or partne	CCP ·	if6:60 (minor) 16:70 (conservatee) 16:90 (authorized person)
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Form Adnoted for Mandatory Use. SUM-100 [Rev. July 1; 2009]

SUMMONS

Code of Civil Procedure §§ 412.20, 465 www.courtinto.ca.gov

American LegalNat. Inc

## Case 2:12-cv-10641-R-FMO Document 1 Filed 12/12/12 Page 13 of 54 Page ID #:81

S330 Topanga Canyon Boulevard Woodland Hills, California 91364  TELEPHONE NO: \$18-319-9879 ATRONSET FOR Name: Andrew Sokolowski SUPERIOR COLOR OF CALIFORNIA, COUNTY OF LOS Angeles STREET ADDRESS: IT! North Hill Street MALINA ADDRESS: GITY NO 2P CODE: LOS Angeles, CA 90012 STREET ADDRESS: COVER SHEET  VInlimited Limited (Amount Amount Gemanded is exceeds \$25,000 or less).  (Amount Amount Gemanded is exceeds \$25,000 or less).  (Amount Auto (22)  Items 1-6 below must be completed (see instructions on page 2).  1. Check one box below for the case type that best describes this case: Auto 7 ort Auto (27)  Default (48) Other PIPDMO (Personal Injury/Property Dange/Wrongful Death) Tort Dange (49) Default Institute (49) Other PIPDMO (28) Non-PIPDMO (29) Other PIPDMO (29) Default (19)		CM-010
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BRANCHINNEE: CENTRAL DISTRICT, Stanley Mosk Courthouse   Total Name	MAILING ADDRESS:	· 1:
SOKOLOWSKI v. MICROSOFT CORPORATION  CIVIL CASE COVER SHEET	cry and zip code: Los Angeles, C'A 90012  BRANCH NAME: Central District, Stanley Mosk Courthouse	John A. Clarke, Executive Officer/Clark
CIVIL CASE COVER SHEET    Unlimited   Limited (Amount demanded is exceeds \$25,000) s 25,000 or less)   Counter   Joinder   Joinder   Joinder   General   General   Joinder   General   Gen		By A. Flans, Deputy
(Amount (Amount (Amount demanded is exceeds \$25,000 or less)    Cal. Rules of Court, rule 3.402   neer:	, , , , , , , , , , , , , , , , , , ,	tion CASE NUMBER: BC495538
Cal. Rules of Court, rule 3.402)   Depr:	(Amount (Amount L) Counter L) Join	ider lines.
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Uninsured motorist (46)	Auto Tort Contract	(O-1 Dute- of Count rules 2 400 2 402)
Damage/Wrongful Death) Tort   Insurance coverage (18)   Asbatos (04)   Other contract (37)   Securitles litigation (28)   Product liability (24)   Real Property   Environmental/Toxic tort (30)   Insurance coverage claims arising from the above listed provisionally complex case (19)   Other PIPE/WRO (23)   Condemnation (14)   Society (19)   Insurance coverage claims arising from the above listed provisionally complex case (197)   Other PIPE/WRO (23)   Condemnation (14)   Society (19)   Insurance coverage claims arising from the above listed provisionally complex case (197)   Other real property (26)   Insurance coverage claims arising from the above listed provisionally complex case (197)   Other real property (26)   Insurance coverage claims arising from the above listed provisionally complex case (197)   Other real property (26)   Insurance coverage claims arising from the above listed provisionally complex case (197)   Other real property (26)   Insurance coverage claims arising from the above listed provisionally complex case (197)   Insurance coverage claims arising from the above listed provisionally complex case (197)   Insurance coverage claims arising from the above listed provisionally complex case (197)   Insurance coverage claims arising from the above listed provisionally complex case (197)   Insurance coverage claims arising from the above listed provisionally complex case (197)   Insurance coverage claims arising from the above listed provisionally complex case (197)   Insurance coverage claims arising from the above listed provisional from the above listed provisional from the above listed provision (197)   Insurance coverage claims arising from the above listed provisional from the above listed provisional from the above listed provisional from the above listed provision and the above listed provision and from the above listed provision and from the above listed provision and the above listed provision a	1 == 1 (=-)	(00)
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Fraud (16)	, , ,	Enforcement of judgment (20)
Intellectual property (19)	Defamation (13) Commercial (31)	Miscellaneous Civil Complaint
Professional negligence (25)  Didicial Review  Asset forfeiture (05)  Employment  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other employment (15)  Other employment (15)  Other employment (15)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  Writ of mandate (02)  Other petition (not specified above) (43)  In the case is complex under packet above (21)  Other petition (not specified above) (43)  Other petition (not specified above) (43)  In the case is complex under packet above (21)  Other petition (not specified above) (43)  In the case is complex under packet above (21)  Other petition (not specified above) (43)  In the case is complex under packet above (21)  Other petition (not specified above) (21)  Other petition (not specified above) (21	Fraud (16) Residential (32)	RICO (27)
Other non-PI/PDWD tort (35)  Employment	, , , , , , , , , , , , , , , , , , , ,	Other complaint (not specified above) (42)
Employment		Miscellaneous Civil Petition
Wrongful termination (36)		(44)
Other employment (15)  Other judicial review (39)  2. This case  is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:  a.  Large number of separately represented parties		Other petition (not specified above) (43)
2. This case		
a. Large number of separately represented parties b. Extensive motion practice raising difficult or novel. issues that will be time-consuming to resolve c. Substantial amount of documentary evidence c. Substantial amount of documentary evidence d. Substantial postjudgment judicial supervision  3. Remedies sought (check all that apply): a. monetary d. Number of causes of action (specify): 3, b. monmonetary; declaratory or injunctive relief d. Substantial postjudgment judicial supervision  3. Remedies sought (check all that apply): a. monetary d. Number of causes of action (specify): 3, b. monmonetary; declaratory or injunctive relief d. Substantial postjudgment judicial supervision  5. This case is in a class action suit. 6. If there are any known related cases, file and serve a notice of related case. (You may use famp (M. O. D.	2. This case / is is not complex under rule 3.400 of the Califor	nia Rules of Court. If the case is complex, mark the
issues that will be time-consuming to resolve c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision  3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive  4. Number of causes of action (specify): 3,  5. This case is in not a class action suit.  6. If there are any known related cases, file and serve a notice of related case. (You may use tamp (M-013))  NOTICE  Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Count, rule 3.220.) Failure to file may result in sanctions.  File this cover sheet in addition to any cover sheet required by local court rule.  In other counties, states, or countries, or in a federal court of the california Rules of Count, you must serve a copy of this cover sheet on all		number of witnesses
Substantial amount of documentary evidence  f. Substantial postjudgment judicial supervision  3. Remedies sought (check all that apply): a. monetary b. monetary; declaratory or injunctive relief c. monetary		the state of the s
4. Number of causes of action (specify): 3, 5. This case is is not a class action suit. 6. If there are any known related cases, file and serve a notice of related case. (You may use farm CM-6751):  Date: November 12, 2012 Rhett T. Francisco  (TYPE OR PRINT NAME)  NOTICE  Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Count rule 3.220.) Failure to file may result in sanctions.  File this cover sheet in addition to any cover sheet required by local court rule.  If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all		ntial postjudgment judicial supervision
5. This case  is is not a class action suit. 6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015):  Date: November 12, 2012 Rhett T. Francisco  (TYPE OR PRINT NAME)  NOTICE  Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Count rule 3.220.) Failure to file may result in sanctions.  File this cover sheet in addition to any cover sheet required by local court rule.  If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all	•	etary; declaratory or injunctive relief cpunitive
Date: November 12, 2012 Rhett T. Francisco  (TYPE OR PRINT NAME)  NOTICE  Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Count rule 3.220.) Failure to file may result in sanctions.  File this cover sheet in addition to any cover sheet required by local court rule.  If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all		
Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Count rule 3.220.) Failure to file may result in sanctions.  • File this cover sheet in addition to any cover sheet required by local court rule.  • If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all	6. If there are any known related cases, file and serve a notice of related case.	(You may use form CM-015);
NOTICE  Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Count, rule 3.220.) Failure to file may result in sanctions.  File this cover sheet in addition to any cover sheet required by local court rule.  If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all		
<ul> <li>Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Count rule 3.220.) Failure to file may result in sanctions.</li> <li>File this cover sheet in addition to any cover sheet required by local court rule.</li> <li>If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all</li> </ul>	(TYPE OR PRINT NAME)	(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)
<ul> <li>File this cover sheet in addition to any cover sheet required by local court rule.</li> <li>If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all</li> </ul>	<ul> <li>Plaintiff must file this cover sheet with the first paper filed in the action or produnder the Probate Code, Family Code, or Welfare and Institutions Code). (Ca</li> </ul>	ceeding (except small claims cases or cases filed at Rules of Count, rule 3.220.) Failure to file may result
other parties to the action or proceeding.  • Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.  Page 1 of 2	<ul> <li>File this cover sheet in addition to any cover sheet required by local court rule</li> <li>If this case is complex under rule 3.400 et seq. of the California Rules of Cou</li> </ul>	e. Int, you must serve a copy of this cover sheet on all
	other parties to the action or proceeding.  • Unless this is a collections case under rule 3.740 or a complex case, this cov	er sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use Judicial Council of California CM-010 [Rev. July 1, 2007] **CIVIL CASE COVER SHEET** 

Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.740, Cal. Standards of Judkial Administration, std. 3.10 www.courtinfo.ca.gov

American LegalNet Inc.

CM-010

#### INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1: This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheef to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

Auto Tort Auto (22)-Personal Injury/Property

> Damage/Wrongful Death Uninsured Motorist (46).(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PI/PD/WD (Personal Injury/ Property Damage/Wrongful Death)

Asbestos (04)

Asbestos Property Damage Asbestos Personal Injury/ Wrongful Death

Product Liability (not asbestos or toxic/environmental) (24) Medical Malpractice (45)

Medical Malpractice

Physicians & Surgeons Other Professional Health Care

Malpractice Other PI/PD/WD (23)

Premises Liability (e.g., slip

and fall)

Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)

Intentional Infliction of **Emotional Distress** 

Negligent Infliction of **Emotional Distress** 

Other PI/PD/WD

Non-Pl/PD/WD (Other) Tort

Business Tort/Unfair Business. Practice (07)

Civil Rights (e.g., discrimination, false arrest) (not civil

harassment) (08) Defamation (e.g., slander, libel)

(13)Fraud (16)-

Intellectual Property (19) Professional Negligence (25)

Legal Malpractice Other Professional Malpractice (not medical or legal)

Other Non-PI/PD/WD Tort (35)

**Employment** 

Wrongful Termination (36) Other Employment (15)

CASE TYPES AND EXAMPLES

Contract Breach of Contract/Warranty (06)

Breach of Rental/Lease

Contract (not unlawful detainer or wrongful eviction) Contract/Warranty Breach-Seller

Plaintiff-(not fraud or negligence)

Negligent Breach of Contract/ Warranty

Other Breach of Contract/Warranty

Collections (e.g., money owed, open

book accounts) (09) Collection Case-Seller Plaintiff Other Promissory Note/Collections

Case Insurance Coverage (not provisionally

complex) (18) Auto Subrogation

Other Coverage

Other Contract (37) Contractual Fraud

Other Contract Dispute

Real.Property

Eminent Domain/Inverse

Condemnation (14)

Wrongful Eviction (33)

Other Real Property (e.g., quiet title) (26) Writ of Possession of Real Property

Mortgage Foreclosure

Quiet Tille

Other Real Property (not eminent domain, landlord/tenant, or

foreclosure)

Unlawful Detainer

Commercial (31)

Residential (32)

Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)

Petition Re: Arbitration Award (11)

Writ of Mandate (02)

Writ-Administrative Mandamus Writ-Mandamus on Limited Court

Case Matter Writ-Other Limited Court Case

Review

Other Judicial Review (39) Review of Health Officer Order

Notice of Appeal-Labor Commissioner Appeals Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)

Antitrust/Trade Regulation (03)

Construction Defect (10) Claims Involving Mass Tort (40)

Securities Litigation (28) Environmental/Toxic Tort (30)

Insurance Coverage Claims

(arising from provisionally complex.

case type listed above) (41) **Enforcement of Judgment** 

Enforcement of Judgment (20)

Abstract of Judgment (Out of County)

Confession of Judgment (non-

domestic relations) Sister State Judgment

Administrative Agency Award (not unpaid taxes)

Petition/Certification of Entry of Judgment on Unpaid Taxes

Other Enforcement of Judgment Case Miscellaneous Civil Complaint

**RICO (27)** 

Other Complaint (not specified above) (42)

Declaratory Relief Only Injunctive Relief Only (non-

, harassment) Mechanics Lien

Other Commercial Complaint

Case (non-tort/non-complex) Other Civil Complaint

(non-tort/non-complex) Miscellaneous Civil Petition

Partnership and Corporate Governance (21)

Other Petition (not specified above) (43)

Civil Harassment Workplace Violence Elder/Dependent Adult

Abuse **Election Contest** 

Petition for Name Change Petition for Relief From Late

Claim

Other Civil Petition

Page 2 of 2

SHORT TITLE:	CASE NUMBER	r o 0.
SOKOLOWSKI v. MICROSOFT CORPORATION		BC 49.5330,
		-3 G

CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION  (CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)
This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court
Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:
JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL HOURS! DAITED IT. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):
Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in
the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.
Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.
Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked.
For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.
Applicable Reasons for Choosing Courthouse Location (see Column C below)
<ol> <li>Class Actions must be filed in the County Courthouse, Central District.</li> <li>May be filed in Central (Other county, or no Bodily Injury/Property Damage).</li> <li>Location where cause of action arose.</li> <li>Location where bodily injury, death or damage occurred.</li> <li>Location where performance required or defendant resides.</li> <li>Location of property or permanently garaged vehicle.</li> <li>Location where petitioner resides.</li> <li>Location where petitioner resides.</li> <li>Location where petitioner resides.</li> <li>Location where one or more of the parties reside.</li> <li>Location of Labor Commissioner Office.</li> </ol>
Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.
A B C

Ħ	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	☐ A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
Au	Uninsured Motorist (46)	A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
erty ort	Asbestos (04)	.   A6070 Asbestos Property Damage  A7221 Asbestos - Personal Injury/Wrongful Death	2.
Properath T	Product Liability (24)	.  A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
al Injury. ngful De	Medical Malpractice (45)	<ul> <li>☐ A7210 Medical Malpractice - Physicians &amp; Surgeons</li> <li>☐ A7240 Other Professional Health Care Malpractice</li> </ul>	1., 2., 4. 1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Other Personal Injury Property Damage Wrongful Death (23)	<ul> <li>☐ A7250 Premises Liability (e.g., slip and fall)</li> <li>☐ A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)</li> <li>☐ A7270 Intentional Infliction of Emotional Distress</li> <li>☐ A7220 Other Personal Injury/Property Damage/Wrongful Death</li> </ul>	1., 2., 4. 1., 2., 4. 1., 2., 3. 1., 2., 4.
· perty n Jort	Business Tort (07)	☑ A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1)2., 3.
y/Prog Death	Civil Rights (08)	A6005 Civil Rights/Discrimination	1., 2., 3.
Injur	. Defamation (13)	☐ A6010 Defamation (stander/libel)	1., 2., 3.
sonal	Fraud (16)	A6013 Fraud (no contract)	1., 2., 3.
Non-Personal Injury/Property Damage/Wrongful Death Tor	<i>'</i> .		

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CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION

LASC, rule 2.0 Page 1 of 4

		_
	Non-Personal Injury/Property Damage	Wrongful Death-Tort (Cont'd.)
	Fmolovment	Titologista in the control of the co
•		
	toertoo	Contract
	,	
	Real Property	
	iew Unlawful Detainer	

Je!					
mag	SHORT TITLE:	CASE NUMBER			
/ Da	SOKOLOWSKI V. MIC	CROSOFT CORPORATION,	·		
ry/Property ort (Cont'o	. A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons -See Step 3 Above		
Non-Personal Injury/Property Damagel <u>.</u> Wrongful Death ·Tort (Cont'd.)	Professional Negligence (25)	☐ A6017 Legal Malpractice ☐ A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.		
Non-P Wrong	Other (35)	☐ A6025 Other Non-Personal Injury/Property Damage tort	2,,3.		
ment	Wrongful Termination (36)	☐ A6037 Wrong(ul Termination	1., 2., 3.		
Employment .	Other Employment (15)	A6024 Other Employment Comptaint Case  A6109 Labor Commissioner Appeals	1., 2., 3. 10.		
ıct	Breach of Contract/ Warranty (06) (not insurance)	<ul> <li>□ A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction)</li> <li>□ A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)</li> <li>□ A6019 Negligent Breach of Contract/Warranty (no fraud)</li> <li>□ A6028 Other Breach of Contract/Warranty (not fraud or negligence)</li> </ul>	2., 5. 2., 5. 1., 2., 5.		
Contract	Collections (09)	☐ A6002 Collections Case-Seller Plaintiff ☐ A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.		
	Insurance Coverage (18) .	☐ A6015 Insurance Coverage (not complex)	1., 2., 5., 8.		
,	Other Contract (37)	<ul> <li>□ A6009 Contractual Fraud</li> <li>□ A6031 Tortious Interference</li> <li>□ A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)</li> </ul>	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.		
erty .	Eminent Domain/Inverse Condemnation (14)	☐ A7300 Eminent Domain/Condemnation Number of parcels	2.		
Real Proper	Wrongful Eviction (33)	☐ A6023 Wrongful Eviction Case	2., 6.		
	Other Real Property (26)	☐ A6018 Mortgage Foreclosure ☐ A6032 Quiet Title ☐ A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6		
etaine	Unlawful Detainer- Commercial (31)	☐ A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.		
wful E	Unlawful Detainer- Residential (32)	☐ A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.		
w Unla	Unlawful Detainer- Drugs (38)	☐ A6022 Unlawful Detainer-Drugs	2., 6.		
Judicial Review Unlawful Detainer	Asset Forfeiture (05) Petition re Arbitration	☐ A6108 Asset Forfeiture Case ☐ A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 6. 2., 5.		
Judicia	(11)		1		

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CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION

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	· ·		<u> </u>		
SHORT TITLE:	_		CASE NUMBER	٠	
SOKOLOWSKI V. MICROSOFT CORPORATION .		•		_	3
			•		Ċ

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	Applicable Reasons - See Step 3 Above
	☐ A6151 Writ - Administrative Mandamus	2., 8.
Writ of Mandate	☐ A6152 Writ - Mandamus on Limited Court Case Matter	2.
(02)	A6153 Writ - Other Limited Court Case Review	2.
Other Judicial Review (39)	☐ A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	☐ A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	A6007 Construction defect	1., 2., 3.
Claims Involving Mass Tort (40)	☐ A6006 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	☐ A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	☐ A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (4.1)	☐ A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
	☐ A6141 Sister State Judgment	2., 9.
Enforcement	☐ A6160 Abstract of Judgment	2., 6.
of Judgment	☐ A6107 Confession of Judgment (non-domestic relations)	2., 9.
(20)	☐ A6140 Administrative Agency Award (not unpaid taxes)	2., 8.
}	☐ A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2., 8.
	☐ A6112 Other Enforcement of Judgment Case	2., 8., 9.
RICO (27)	☐ A6033 Racketeering (RICO) Case	1., 2., 8.
-	☐ A6030 Declaratory Relief Only	1., 2., 8.
Other Complaints .	☐ A6040 Injunctive Relief Only (not domestic/harassment)	2., 8.
(Not Specified Above)	☐ A6011 Other Commercial Complaint Case (non-tort/non-complex)	1., 2., 8.
(42)	☐ A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8
Partnership Corporation Governance(21)	☐ A6113 Partnership and Corporate Governance Case	2., 8.
	☐ A6121 Civil Harassment	2., 3., 9.
	☐ A6123 <sup>-</sup> Workplace Harassment	2., 3., 9.
	☐ A6124 Elder/Dependent Adult Abuse Case	2., 3., 9.
Other Petitions (Not Specified Above)	A6190 Election Contest	2.
	☐ A6110 Petition for Change of Name	2., 7.
. (43)	☐ A6170 Petition for Relief from Late Claim Law	2., 3., 4., 8.
	☐ A6100 Other Civil Petition	2., 9.

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Judicial Review (Cont'd.)

Provisionally Complex Litigation

Enforcement of Judgment

Wiscellaneous Civil Complaints

Wiscellaneous Civil Petitions

CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION

LASC, rule 2.0 Page 3 of 4

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SHORTTHLE: SOKOLOWSKI v. MICROSOFT CORPORATION			CASE NUMBER	
				residence or place of business, performance, o eason for filing in the court location you selected
REASON: CHECK THE NU WHICH APPLIE			1.	Century City Mall a Monica Blvd.
☑1. □2. □3. □4. □5. □	]6. □7. □8	. □9. □10.		
CITY: Los Angeles	STATE: CA	ZIP'CODE: 90067		·
true and correct and that the abo	ve-entitled n	natter is properly file	d for assignmen	aws of the State of California that the foregoing is at to the Stanley Mosk courthouse in the Proc., § 392 et seq., and LASC Local Rule 2.0,
subds. (b), (c) and (d)).		,		
Dated: November 12, 2012	<del>-</del> '		<u> </u>	(SIGNAZAREGE ATTOKNEY/FILING PARTY)

#### PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

- 1. Original Complaint or Petition.
- If filing a Complaint, a completed Summons form for issuance by the Clerk.
- Civil Case Cover Sheet form CM-010.
- Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev. 01/07), LASC Approved 03-04.
- 5. Payment in full of the filing fee, unless fees have been waived.
- Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
- 7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION

LASC, rule 2.0 Page 4 of 4

### SUPERIOR COURT OF CALIFORNÍA, COUNTY OF LOS ANGELES NOTICE OF CASE ASSIGNMENT – CLASS ACTION CASES

Case Number

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

tour case is assigned for all purposes to the judicial off	icer indicated belov	A (Tracer Krife 2.2(c)).
ASSIGNED JUDGE ·	DEPT	ROOM
Judge Elihu M. Berle	323.	1707
Judge Kenneth Freeman	822	1702
Judge William F. Highberger	307	1402
Judge Jane Johnson	308	1415
Judge Anthony J. Mohr	309 .	1409
Judge John Shepard Wiley, Jr.	`311	1408
OTHER		· ·



Instructions for handling Class Action Civil Cases

The following critical provisions of the Chapter Three Rules, as applicable in the Central District, are summarized for your assistance.

#### APPLICATION ·

The Chapter Three Rules were effective January 1, 1994. They apply to all general civil cases.

#### PRIORITY OVER OTHER RULES

The Chapter Three Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

#### CHALLENGE TO ASSIGNED JUDGE

A challenge under Code of Civil Procedure section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

#### TIME STANDARDS

Cases assigned to the Individual Calendaring Court will be subject to processing under the following time standards:

COMPLAINTS: All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days of filing.

CROSS-COMPLAINTS: Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

A Status Conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

#### FINAL STATUS CONFERENCE

The Court will require the parties at a status conference not more than 10 days before the trial to have timely filed and served all motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested jury instructions, and special jury instructions and special jury verdicts. These matters may be heard and resolved at this conference. At least 5 days before this conference, counsel must also have exchanged lists of exhibits and witnesses and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Eight of the Los Angeles Superior Court Rules.

#### **SANCTIONS**

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Three Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Three Rules. Such sanctions may be on a party or if appropriate on counsel for the party.

This is not a complete delineation of the Chapter Three Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is absolutely imperative.

sanctions under That Court Delay Reduction. Caretti reading and compliance w	of the actual Chapter Rules is absolutely imperative.	
Given to the Plaintiff/Cross-Complainant/Attorney of Record on	JOHN A. CLARKE, Executive Officer/Clerk	
	By, Deputy Clerk	
·		

## SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKAGE

[CRC 3.221 Information about Alternative Dispute Resolution]
For additional ADR information and forms visit the Court ADR web application at www.lasuperiorcourt.org (click on ADR).

The plaintiff shall serve a copy of this Information Package on each defendant along with the complaint (Civil only).

#### What Is ADR:

Alternative Dispute Resolution (ADR) is the term used to describe all the other options available for settling a dispute which once had to be settled in court. ADR processes, such as arbitration, mediation, neutral evaluation (NE), and settlement conferences, are less formal than a court process and provide opportunities for parties to reach an agreement using a problem-solving approach.

But I have the war

There are many different kinds of ADR. All of them utilize a "neutral", an impartial person, to decide the case of help the parties reach an agreement.

#### Mediation:

In mediation, a neutral person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.

Cases for Which Mediation May Be Appropriate

Mediation may be particularly useful when parties have a dispute between or among family members, neighbors, or business partners. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner.

Cases for Which Mediation May Not Be Appropriate

Mediation may not be effective if one of the parties is unwilling to cooperate or compromise. Mediation also may not be effective if one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

#### Arbitration:

In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." Binding arbitration means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Nonbinding arbitration means that the parties are free to request a trial if they do not accept the arbitrator's decision.

Cases for Which Arbitration May Be Appropriate

Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

Cases for Which Arbitration May Not Be Appropriate

If parties want to retain control over how their dispute is resolved, arbitration, particularly binding arbitration, is not appropriate. In binding arbitration, the parties generally cannot appeal the arbitrator's award, even if it is not supported by the evidence or the law. Even in nonbinding arbitration, if a party requests a trial and does not receive a more favorable result at trial than in arbitration, there may be penalties.

Neutral Evaluation

In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

Cases for Which Neutral Evaluation May Be Appropriate

Neutral evaluation may be most appropriate in cases in which there are technical issues that require special expertise to resolve or the only significant issue in the case is the amount of damages.

Cases for Which Neutral Evaluation May Not Be Appropriate

Neutral evaluation may not be appropriate when there are significant personal or emotional barners to resolving the dispute.

Settlement Conferences:

Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.

LAADR 005 (Rev.12-09) · LASC Approved 05-09

Page 1 of 2

#### LOS ANGELES SUPERIOR COURT ADR PROGRAMS

#### CIVIL:

- Civil Action Mediation (Governed by Code of Civil Procedure (CCP) sections 1775-1775-15, California Rules of Court, rules 3:850-3.868 and 3.890-3.898 Evidence Code sections 1115-1128, and Los Angeles Supertor Court Rules, chapter (2)
- Retired Judge Settlement Conference
- Neutral Evaluation (Governed by Los Angeles Superior Court Rules, chapter 12.)
- Judicial Arbitration (Governed by Code of Civil Procedure sections 1141.10-1141.31, California Rules of Court, rules 3,810-3,830, and Los
- Eminent Domain Mediation (Governed by Code of Civil Procedure section 1250.420.)
- Civil Harassment Mediation
- Small Claims Mediation

#### FAMILY LAW (non-custody):

- Mediation
- Forensic Certified Public Accountant (CPA) Settlement Conference
- Settlement Conference
- Nonbinding Arbitration (Governed by Family Code section 2554.)

#### PROBATE:

- Mediation
- Settlement Conference

#### NEUTRAL SELECTION

Parties may select a mediator, neutral evaluator, or arbitrator from the Court Party Select Panel or may hire someone privately, at their discretion. If the parties utilize the Random Select Mediation or Arbitration Panel, the parties will be assigned on a random basis the name of one neutral who meets the case criteria entered on the court's website.

#### COURT ADR PANELS

Party Select

Panel

The Party Select Panel consists of mediators, neutral evaluators, and arbitrators who have achieved a specified level of experience in court-connected cases. The parties (collectively) may be charged \$150.00 per hour for the first three hours of hearing time. Thereafter, the parties may be charged for additional hearing time on an hourty basis at rates established by the neutral if the parties consent in writing.

Random Select Panel The Random Select Panel consists of trained mediators, neutral evaluators, and arbitrators who have not yet gained the experience to qualify for the Party Select Panel, as well as experienced neutrals who make themselves available pro bono as a way of supporting the judicial system. It is the policy of the Court that all Random Select panel volunteer mediators, neutral evaluators, and arbitrators provide three hours hearing time per case. Thereafter, the parties may be charged for additional hearing time on an hourty basis at rates established by the neutral if the parties

Private Neutral

The market rate for private neutrals can range from \$300-\$1,000 per hour.

ADR ASSISTANCE

For assistance regarding ADR, please contact the ADR clerk at the courthouse in which your case was filed.

<b>ECOURTHOUSE</b>	MODRESS MANAGEMENT	ROOM	(Girosson Land	# TT ( )	
Antonovich ·	42011 4th St. West	None	Lancaster, CA 93534	(664)074 727E	
Chatsworth	9425 Penfield Ave:	1200	Chatsworth, CA 91311	(661)974-7275	(661)974-7060
Compton	200 W. Compton Blvd.	1002	Compton, CA 90220	(818)576-8565	(818)576-8687
.Glendale ::	:600 E. Broadway V 1977	273	Glendale, CA 91206	(310)603-3072	(310)223-0337,
Long Beach	415 W. Ocean Blvd.	316	Long Beach, CA 90802	(818)500-3160 · :	(818)548-5470
Norwalk	.12720 Norwalk Blvd.	308		(562)491-6272	. (562)437-3802 .
Pasadena	300 E. Walnut St.	109	Norwalk, CA 90650	(562)807-7243	(562)462-9019
Pomona	400 Civic Center Plaza		Pasadena, CA 91101	(626)356-5685	(626)666-1774
San Pedro	505 S. Centre	106	Pomona, CA 91766	(909)620-3183	(909)629-6283
Santa Monica	1725 Main St.	209	San Pedro, CA 90731	(310)519-6151	(310)514-0314
Stanley Mosk		203 :	Santa Monica, CA 90401 ···	(310)260-1829	(310)319-6130
Топтапсе	111 N. Hill St.	113 💠	Los Angeles, CA 90012	(213)974-5425	(213)633-5115
	825 Maple Ave.	100	Torrance, CA 90503	(310)222-1701	(310)782-7326
.Van Nuys	6230 Sylmar Ave.	418	Van Nuys, CA 91401	(818)374-2337	(818)902-2440
					<u> </u>

Partially Funded by the Los Angeles County Dispute Resolution Program
A complete list of the County Dispute Resolution Programs is available online and upon request in the Clerk's Office

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Page 2 of 2

#### SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES

#### Information About Alternative Dispute Resolution:

California Rules of Court, rule 3.221, requires counties participating in the Dispute Resolution Programs Act ("DRPA"), to provide information about the availability of local dispute resolution programs funded under DRPA. In Los Angeles County, these services are made possible through major support from the Los Angeles County Department of Community and Senior Services through DRPA. The list of the local dispute resolution programs funded in Los Angeles County is set forth below.

Superior Court of California, Los Angeles County, ADR Office (213) 974-5425 www.lasuperiorcourt.org/ADR

Staff and volunteers of the following identified agencies are not employees of the Los Angeles Superior Court:

Asian-Pacific American Dispute Resolution Center (213) 250-8190 www.apadrc.org

California Academy of Mediation Professionals (818) 377-7250 www.mediationprofessionals.org

California Lawyers for the Arts, Arbitration and Mediation Service (310) 998-5590 www.calawyersforthearts.org/

Center for Conflict Resolution (818) 705-1090 www.ccr4peace.org

Inland Valleys Justice Center (909) 621-7479 www.ivic.org

Korean American Coalition 4.29 Center (213) 365-5999 www.kacla.org

Los Angeles City Attorney's Office Dispute Resolution Program (213) 485-8324 www.lacity.org/mediate

Los Angeles County Bar Association Dispute Resolution Services (877) 473-7658 (323) 930-1841 (888) 922-1322 (562) 570-1019 www.lacba.org/drs

Los Angeles County Department of Consumer Affairs (213) 974-0825

The Loyola Law School Center for Conflict Resolution (213) 736-1145 www.lls.edu/ccr

City of Norwalk Dispute Resolution Program (562) 929-5603 www.ci.norwalk.ca.us/socialservices2.asp

These programs do not offer legal advice or help you respond to a summons, but they can assist in resolving your problem through mediation.

Dispute Resolution Programs Act Contracts Administration Office: (213) 738-2621

LAADR 007 (Rev. 04/10) LASC Approved 07-04 INFORMATION ABOUT
ALTERNATIVE DISPUTE RESOLUTION

EXHIBIT A PAGE 20

NAME, ADDRESS, AND TELEPHONE NUMBER OF ATTORNE	YOR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER	Reserved (or Clerk's File Stamp
ATTORNEY FOR (Name):	CONTA COUNTY OF LOO ANDE	
COURTHOUSE ADDRESS:	ORNIA, COUNTY OF LOS ANGE	LES .
Click on the button to select t	he appropriate court address.	
PLAINTIFF:		
DEFENDANT:		
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STIPULATION	TO PARTICIPATE IN	CASE NUMBER:
ALTERNATIVE DIS	SPUTE RESOLUTION (ADR)	
The undersigned parties stigulate to pa	rticipate in an Alternative Dispute Resolutio	on (ADD) process in the phase setting
action, as follows:	mobare mani Vireiniame Dispute Desorbin	ou (Apiv) brocess in the above-entitled
☐ Mediation		
☐ Non-Binding Arbitration		
☐ Binding Arbitration		
Early Neutral Evaluation		
Settlement Conference		
Other ADR Process (describe):		
Dated:		
Dated.		
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	☐ Additional signature(s) on reverse	
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LAADR 001 10-04 LASC Approved (Rev. 01-07) STIPULATION TO PARTICIPATE IN ALTERNATIVE DISPUTE RESOLUTION (ADR)

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Cal. Rules of Court, rule 3.221 Page 1 of 2

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Plaintiff Defendant Cross-defendant		
Name of Stipulating Party	Name of Party or Attorney Executing Stipulation	Signature of Party or Attorney
☐ Plaintiff ☐ Defendant ☐ Cross-defendant		
Name of Stipulating Party	Name of Party or Attorney Executing Stipulation	Signature of Party or Attorney
☐ Plaintiff ☐ Defendant ☐ Cross-defendant		
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☐ Plaintiff ☐ Defendant ☐ Cross-defendant		
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☐ Plaintiff ☐ Defendant ☐ Cross-defendant.	the art and a final first and a paragraph	digitation of that of Attorning
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☐ Plaintiff ☐ Defendant ☐ Cross-defendant	are and a summer executing officiation	Signature of Larth of Minutes
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Plaintiff Defendant Cross-defendant	Name of Party or Attorney Executing Stipulation	Signature of Party or Attorney

LAADR 001:10-04 LASC Approved (Rev. 01-07) STIPULATION TO PARTICIPATE IN ALTERNATIVE DISPUTE RESOLUTION (ADR)

Cal. Rules of Court, rule 3,221 Page 2 of 2

EXHIBIT A PAGE 22

#### **VOLUNTARY EFFICIENT LITIGATION STIPULATIONS**



Superior Court of California County of Los Angeles



Los Angeles County-Bar Association Litigation Section

Los Angeles County Bar Association Labor and Employment Law Section





Southern California Defense Counsel

Association of Business Trial Lawyers



The Early Organizational Meeting Stipulation, Discovery Resolution Stipulation, and Motions in Limine Stipulation are voluntary stipulations entered into by the parties. The parties may enter into one, two, or all three of the stipulations; however, they may not alter the stipulations as written, because the Court wants to ensure uniformity of application. These stipulations are meant to encourage cooperation between the parties and to assist in resolving issues in a manner that promotes economic case resolution and judicial efficiency.

The following organizations endorse the goal of promoting efficiency in litigation and ask that counsel consider using these stipulations as a voluntary way to promote communications and procedures among counsel and with the court to fairly resolve issues in their cases.

- ♦ Los Angeles County Bar Association Litigation Section ♦
  - ♦ Los Angeles County Bar Association
    Labor and Employment Law Section◆
  - **♦**Consumer Attorneys Association of Los Angeles**♦** 
    - **♦**Southern California Defense Counsel**♦**
    - ♦Association of Business Trial Lawyers♦
    - ♦California Employment Lawyers Association

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ATTORNEY FOR (Name):		1
SUPERIOR COURT OF CALIFORNIA, COUN	ITY OF LOS ANGELES	
COURTHOUSE ADDRESS:		
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PLAINTIFF:		
DEFENDANT:		
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STIPULATION – EARLY ORGANIZATI	ONAL MEETING	· ·
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This stipulation is intended to encourage cooperation among the parties at an early stage in the litigation and to assist the parties in efficient case resolution.

#### The parties agree that:

- The parties commit to conduct an initial conference (in-person or via teleconference or via videoconference) within 15 days from the date this stipulation is signed, to discuss and consider whether there can be agreement on the following:
  - a. Are motions to challenge the pleadings necessary? If the issue can be resolved by amendment as of right, or if the Court would allow leave to amend, could an amended complaint resolve most or all of the issues a demurrer might otherwise raise? If so, the parties agree to work through pleading issues so that a demurrer need only raise issues they cannot resolve. Is the issue that the defendant seeks to raise amenable to resolution on demurrer, or would some other type of motion be preferable? Could a voluntary targeted exchange of documents or information by any party cure an uncertainty in the pleadings?
  - Initial mutual exchanges of documents at the "core" of the litigation. (For example, in an
    employment case, the employment records, personnel file and documents relating to the
    conduct in question could be considered "core." In a personal injury case, an incident or
    police report, medical records, and repair or maintenance records could be considered
    "core.");
  - c. Exchange of names and contact information of witnesses;
  - d. Any insurance agreement that may be available to satisfy part or all of a judgment, or to indemnify or reimburse for payments made to satisfy a judgment;
  - e. Exchange of any other information that might be helpful to facilitate understanding, handling, or resolution of the case in a manner that preserves objections or privileges by agreement;
  - f. Controlling issues of law that, if resolved early, will promote efficiency and economy in other phases of the case. Also, when and how such Issues can be presented to the Court;
  - g. Whether or when the case should be scheduled with a settlement officer, what discovery or court ruling on legal issues is reasonably required to make settlement discussions meaningful, and whether the parties wish to use a sitting judge or a private mediator or other options as

LACIV 229 (new) . LASC Approved 04/11

STIPULATION - EARLY ORGANIZATIONAL MEETING

Page 1 of 2





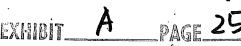


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	h.	Computation of damages, including documentation is based;	ents not priv	rileged or	protected fro	om disclosure	, on
	i.	Whether the case is suitable for the Ex www.lasuperiorcourt.org under "Civil" an	pedited Jury d then under	Trial pr "Genera	ocedures (se I Information"	e information ).	at
2.		The time for a defending party to respond to for the complete for the complete for the complete complaint, which is comprised of the 30 days permitted by Code of Cibeen found by the Civil Supervising Judge this Stipulation.	int, and ys to respon vil Procedure	(INSER d under ( e section	TDATE). Sovernment ( 1054(a), god	_for the cro Code § 68616 od cause hav	ss- (b), (ina
3.		The parties will prepare a joint report titled and Early Organizational Meeting Stipulat results of their meet and confer and advis efficient conduct or resolution of the case. the Case Management Conference stat statement is due.	on, and if do ing the Cour The parties	esired, a t of any shall atta	proposed ord way it may a ach the Joint	der summariz ssist the part Status Repor	ing ies' t to
4.		References to "days" mean calendar days, any act pursuant to this stipulation falls on a for performing that act shall be extended to	Saturday, S	Sunday or	ed. If the date r Court holida	e for performir y, then the tin	ng ne
The	foll	lowing parties stipulate:			-		
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STIPULATION - EARLY ORGANIZATIONAL MEETING

Page 2 of 2



NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY;	STATE BAR NUMBER	Reserved for Clerk's File Stamp
•	• .	·
TELEPHONE NO.: FAX NO. E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	(Optional):	
SUPERIOR COURT OF CALIFORNIA, CO	LINTY OF LOS ANGELES	<del>,</del>
COURTHOUSE ADDRESS:	ONTI OF EOD ANGLEED	
	•	
PLAINTIFF:		· ·
		•
DEFENDANT:		1.
		·
STIPULATION - DISCOVERY	CASE NUMBER:	

This stipulation is intended to provide a fast and informal resolution of discovery issues through limited paperwork and an informal conference with the Court to aid in the resolution of the issues.

#### The parties agree that:

- Prior to the discovery cut-off in this action, no discovery motion shall be filed or heard unless the moving party first makes a written request for an Informal Discovery Conference pursuant to the terms of this stipulation.
- 2. At the Informal Discovery Conference the Court will consider the dispute presented by parties and determine whether it can be resolved informally. Nothing set forth herein will preclude a party from making a record at the conclusion of an Informal Discovery Conference, either orally or in writing.
- Following a reasonable and good faith attempt at an informal resolution of each issue to be presented, a party may request an Informal Discovery Conference pursuant to the following procedures:
  - a. The party requesting the Informal Discovery Conference will:
    - File a Request for Informal Discovery Conference with the clerk's office on the approved form (copy attached) and deliver a courtesy, conformed copy to the assigned department;
    - ii. Include a brief summary of the dispute and specify the relief requested; and
  - iii. Serve the opposing party pursuant to any authorized or agreed method of service that ensures that the opposing party receives the Request for Informal Discovery Conference no later than the next court day following the filing.
  - b. Any Answer to a Request for Informal Discovery Conference must:
    - i. Also be filed on the approved form (copy attached);
    - Include a brief summary of why the requested relief should be denied;

LACIV 036 (new) LASC Approved 04/11

STIPULATION - DISCOVERY RESOLUTION

Page 1 of 3

XHIBIT A PAGE

SHORT TITLE:	,	CASE NUMBER	•
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- iii. Be filed within two (2) court days of receipt of the Request; and
- iv. Be served on the opposing party pursuant to any authorized or agreed upon method of service that ensures that the opposing party receives the Answer no later than the next court day following the filing.
- c. No other pleadings, including but not limited to exhibits, declarations, or attachments, will be accepted.
- d. If the Court has not granted or denied the Request for Informal Discovery Conference within ten (10) days following the filing of the Request, then it shall be deemed to have been denied. If the Court acts on the Request, the parties will be notified whether the Request for Informal Discovery Conference has been granted or denied and, if granted, the date and time of the Informal Discovery Conference, which must be within twenty (20) days of the filing of the Request for Informal Discovery Conference.
- e. If the conference is not held within twenty (20) days of the filing of the Request for Informal Discovery Conference, unless extended by agreement of the parties and the Court, then the Request for the Informal Discovery Conference shall be deemed to have been denied at that time.
- 4. If (a) the Court has denied a conference or (b) one of the time deadlines above has expired without the Court having acted or (c) the Informal Discovery Conference is concluded without resolving the dispute, then a party may file a discovery motion to address unresolved issues.
- 5. The parties hereby further agree that the time for making a motion to compel or other discovery motion is tolled from the date of filing of the Request for Informal Discovery Conference until (a) the request is denied or deemed denied or (b) twenty (20) days after the filing of the Request for Informal Discovery Conference, whichever is earlier, unless extended by Order of the Court.
  - It is the understanding and intent of the parties that this stipulation shall, for each discovery dispute to which it applies, constitute a writing memorializing a "specific later date to which the propounding [or demanding or requesting] party and the responding party have agreed in writing," within the meaning of Code Civil Procedure sections 2030.300(c), 2031.320(c), and 2033.290(c).
- 6. Nothing herein will preclude any party from applying ex parte for appropriate relief, including an order shortening time for a motion to be heard concerning discovery.
- 7. Any party may terminate this stipulation by giving twenty-one (21) days notice of intent to terminate the stipulation.
- 8. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day.

LACIV 036 (new) LASC Approved 04/11

STIPULATION - DISCOVERY RESOLUTION

Page 2 of 3

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LACIV 036 (new) LASC Approved 04/11

STIPULATION - DISCOVERY RESOLUTION

Page 3 of 3

XHIBIT A

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:	STATE BAR NUMBER	Reserved for Clerk's File Stamp
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TELEPHONE NO.:		•
E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	X NO. (Optional):	•
SUPERIOR COURT OF CALIFORNIA,	COUNTY OF LOS ANGEL	ES
COURTHOUSE ADDRESS:		
PLAINTIFF:	· .	
•		ľ
DEFENDANT:		
INFORMAL DISCOVERY		CASE NUMBER:
(pursuant to the Discovery Resolution	Stipulation of the parties)	
1. This document relates to:	•	
Request for Informal Disc	covery Conference .	
Answer to Request for In	formal Discovery Conference	•
<ol><li>Deadline for Court to decide on Rectified Request.</li></ol>	quest: (Ins	ert date 10 calendar days following filing of
<ol> <li>Deadline for Court to hold Informal I days following filing of the Request).</li> </ol>	Discovery Conference:	(insert date 20 calendar
4. For a Request for Informal Dis-	covery Conference, briefly	describe the nature of the
discovery dispute, including the	facts and legal arguments	at issue. For an Answer to
Request for Informal Discovery (	Conference, briefly describe	why the Court should deny
the requested discovery, including	g the facts and legal argume	nts at issue.
		•

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INFORMAL DISCOVERY CONFERENCE (pursuant to the Discovery Resolution Stipulation of the parties)

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SUPERIOR COURT OF CALIFORNIA, COU		
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PLAINTIFF:	•,	
DEFENDANT:		
STIPULATION AND ORDER - MOT	CASE NUMBER:	

This stipulation is intended to provide fast and informal resolution of evidentiary issues through diligent efforts to define and discuss such issues and limit paperwork.

#### The parties agree that:

- 1. At least \_\_\_\_ days before the final status conference, each party will provide all other parties with a list containing a one paragraph explanation of each proposed motion in limine. Each one paragraph explanation must identify the substance of a single proposed motion in limine and the grounds for the proposed motion.
- The parties thereafter will meet and confer, either in person or via teleconference or videoconference, concerning all proposed motions in limine. In that meet and confer, the parties will determine:
  - a. Whether the parties can stipulate to any of the proposed motions. If the parties so stipulate, they may file a stipulation and proposed order with the Court.
  - b. Whether any of the proposed motions can be briefed and submitted by means of a short joint statement of issues. For each motion which can be addressed by a short joint statement of issues, a short joint statement of issues must be filed with the Court 10 days prior to the final status conference. Each side's portion of the short joint statement of issues may not exceed three pages. The parties will meet and confer to agree on a date and manner for exchanging the parties' respective portions of the short joint statement of issues and the process for filing the short joint statement of issues.
- 3. All proposed motions in limine that are not either the subject of a stipulation or briefed via a short joint statement of issues will be briefed and filed in accordance with the California Rules of Court and the Los Angeles Superior Court Rules.

LACIV 075 (new) LASC Approved 04/11.

STIPULATION AND ORDER - MOTIONS IN LIMINE

Page 1 of 2

EXHIBIT \_\_\_\_

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### Case 2:12-cv-10641-R-FMO Document 1 Filed 12/12/12 Page 33 of 54 Page ID #:101

SHORT TITLE:	}	•	CASE NUMBER:
The fol	lowing parties stipulate:		
	owing parties supulate.	- •	
Date:		A	
Date:	· (TYPE OR PRINT NAME)	<del></del>	(ATTORNEY FOR PLAINTIFF)
		×	•
Date:	(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
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			JUDICIAL OFFICER

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STIPULATION AND ORDER - MOTIONS IN LIMINE

Page 2 of 2

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1 2 3. · · 4 5 6 7 8 8 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	RHETT T. FRANCISCO(SBN 232749) THE LAW OFFICES OF RHETT T. FRANCISCO 5350 TOPANGA CANYON BOULEVARD WOODLAND HILLS, CALIFORNIA 91364 TEL: (818) 319-9879  PAWEL R. SASIK (SBN 240672) THE LAW OFFICE OF PAWEL R: SASIK 5350 TOPANGA CANYON BOULEVARD WOODLAND HILLS, CALIFORNIA 91364 TEL.: (310) 571-5206  ATTORNEYS FOR PLAINTIFF ANDREW SOKOLOWSKI	CONFORMED COPY ORIGINAL FILED SUPERIOR COUNTY OF CALIFORNIA COUNTY OF LOS ANGELES NOV 13 2012  John A. Clarke Executive Officer/Clerk BY Mary Flores. Deputy
9		
10	SUPERIOR COURT OF TH	E STATE OF CALIFORNIA
11	FOR THE COUNTY OF LOS A	NGELES, CENTRAL DISTRICT
12		•
13	ANDREW SOKOLOWSKI, an individual, on	CASE NO.: BC 49 5 5 3 8
14	behalf of himself and all others similarly situated,	Unlimited Civil Case over \$25,000
15	PLAINTIFF,	) COMPLAINT
16		)   [CLASS ACTION]
17	V.	)
18 19	MICROSOFT CORPORATION; and DOES 1-3	1: VIOLATIONS OF THE CALIFORNIA CONSUMER LEGAL REMEDIES ACT (California Civil Code §§ 1750 et seq.);
20		2. FALSE ADVERTISING (California Business and Professions Code §§ 17500
21	DEFENDANTS.	et seq.); and UNFAIR BUSINESS PRACTICES
22		(California Business and Professions Code §§ 17200 et seq.)
23		JURY TRIAL DEMANDED
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EXHIBIT A PAGE 32

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Plaintiff Andrew Sokolowski ("Plaintiff") brings this consumer class action on behalf of himself and all other similarly situated consumers throughout the State of California, against Defendant Microsoft Corporation ("Defendant" or "Microsoft"), and alleges as follows:

#### JURISDICTION AND VENUE

- 1. This is a civil action by Plaintiff, on behalf of himself and all other people in the State of California who purchased from Defendant a Microsoft Surface tablet computer running. the Windows RT operating system (the "Class") during the period beginning four years before the filing of this complaint until the time of class certification (the "Class Period").
- 2. Plaintiff seeks restitution from Defendant for violations of the False Advertising Law and the Unfair Competition Law relating to Defendant's misrepresentations and material omissions alleged in this Complaint.
- Plaintiff also seeks injunctive relief under the California Consumer Legal Remedies 3. Act.
- 4. Plaintiff is an individual who purchased a Microsoft Surface tablet computer running the Windows RT operating system in Los Angeles County, California.
  - 5.. At all relevant times, Plaintiff was a resident of Los Angeles County, California.
- 6. Venue as to Defendant is proper in this judicial district pursuant to California Code of Civil Procedure sections 395(a) and 395.5 because the Plaintiff's injury occurred in the County of Los Angeles and/or because the Defendant operates a retail store in Los Angeles County, California, from which Plaintiff purchased a Microsoft Surface tablet computer running the Windows RT operating System (the "Surface RT tablet").

#### **PARTIES**

7. Plaintiff Andrew Sokolowski ("Plaintiff") is, and at all relevant times was, an individual consumer residing in Los Angeles County, California. On November 7, 2012, Plaintiff purchased a Surface RT tablet with 32 gigabytes ("32 GB") of purported storage space for \$499.00 from the Microsoft Store located at the Westfield Century City Mall in Los Angeles, California. Plaintiff purchased the 32 GB Surface RT tablet primarily for personal, family or household use. At the same time, Plaintiff also purchased a Microsoft "type cover," which is a traditional

- 8. Plaintiff purchased his Surface RT tablet in reliance on Defendant's claims, on its website, advertisements, product packaging and on the placards placed next to the Surface RT tablet computers at the Microsoft Store, that the Surface RT tablet came equipped with 32 GB of storage space.
- 9. Defendant Microsoft Corporation ("Defendant" or "Microsoft") is a corporation organized under the laws of the State of Washington with its headquarters at One Microsoft Way, Redmond, Washington 98052. On information and belief, Microsoft markets, sells and distributes Surface RT tablets throughout the State of California, including Los Angeles County.
- 10. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendant Does 1 through 100, inclusive, are unknown to Plaintiff who therefore sues these defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. Plaintiff will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 100, inclusive, when they are ascertained.
- 11. On information and belief, Plaintiff alleges that the Defendants named in this Complaint, including Does 1 through 100, inclusive, are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.
- 12. On information and belief, Plaintiff alleges that the Defendants named in this Complaint, including Does 1 through 100, inclusive, are, and at all times mentioned herein were, agents, servants, and/or employees of each of the other defendants and that each defendant was acting within the course of scope of his, hers or its authority as the agent, servant and/or employee of each of the other defendants. Consequently, all the defendants are jointly and severally liable to Plaintiff and the other members of the Class, for the damages sustained as a proximate result of their conduct

#### NATURE OF THE ACTION.

13. Microsoft was founded in 1975 by Bill Gates and Paul Allen. Microsoft develops, manufactures, licenses and supports a wide range of products and services related to computing.

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- 14. In June 2012, Microsoft's Chief Executive Officer, Steve Ballmer, announced that Microsoft would release a tablet computer called the "Surface." A "tablet" computer is a general-purpose computer contained in a single panel which typically uses a touch screen as the input device rather than a traditional keyboard.
- 15. Microsoft will eventually release two versions of the Surface tablet computer. The first version became available for purchase on or about October 26, 2012, and uses the Windows RT operating system (the "Surface RT tablet(s)"). The Surface RT tablet comes in two versions, one which Microsoft represents as having 32 gigabytes (32 GB) of storage space, and one which Microsoft represents as having 64 gigabytes (64 GB) of storage space. The 32 GB Surface RT tablet retails for approximately \$499, or \$599 if purchased with a cover with integrated "touch" keyboard. The 64 GB Surface RT tablet retails for approximately \$699 with the integrated keyboard cover.
- 16. In or about January 2013, Microsoft is scheduled to release another version of the Surface tablet that uses and runs its recently released Windows 8 operating system.
- 17. Defendant employs false, deceptive and misleading practices in connection with marketing, selling, and distributing the Surface RT tablets. Specifically, in its advertising, marketing, and promotional materials, including Microsoft's internet website, product packaging, and product displays, Defendant misrepresents the Surface RT tablets as having either 32 GB or 64 GB of storage capacity. The only disclosure next to Defendant's representations on its website regarding storage capacity reads:

Storage 32 GB\*; 64 GB \*1GB = 1 billion bytes; formatted storage capacity may be less<sup>1</sup>

18. On information and belief, Microsoft knows, but conceals and fails to disclose in its advertising, marketing or promotional materials, that the Windows RT operating system consumes approximately 16 GB of the represented storage capacity of the Surface RT tablets and that those 16 GBs are not, therefore, storage space that the consumer can actually use to store files after

<sup>&</sup>lt;sup>1</sup> See http://www.microsoft.com/Surface/en-US/surface-with-windows-rt/specifications (last visited November 12, 2012).

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- purchase. Thus for a consumer who purchases the 32 GB Surface RT tablet, as Plaintiff did, about 50% of the represented storage capacity is inaccessible and unusable. For purchasers of 64 GB Surface RT tablets, approximately 25% of the represented storage capacity is inaccessible and unusable.
- 19. Plaintiff purchased a 32 GB Surface RT tablet in reliance on Microsoft's misrepresentations and omissions. Microsoft's misrepresentations and omissions are deceptive and misleading because the omit material facts that an average consumer would consider in deciding whether to purchase its products, namely, that 16 GB of the represented storage capacity is, in fact, not available to the purchaser for storage.
- 20. After purchasing his Surface RT tablet, Plaintiff loaded music and some Word documents onto the tablet. While loading music onto his Surface RT tablet, Plaintiff was surprised when it notified him that the tablet no longer had enough storage capacity to accommodate additional files.
- 21. Microsoft continues to mislead consumers by representing that its Surface RT tablets are equipped with either 32 GB or 64 GB of storage space while concealing, omitting and failing to disclose that approximately 16 GB of that space is not available storage space that the purchaser can access and use to store his or her own files.
- 22. Plaintiff hereby brings this class action seeking redress for Defendant's unfair business practices, false or deceptive or misleading advertising, and violations of the Consumers Legal Remedies Act ("CLRA").

### **CLASS ALLEGATIONS**

- 23. Plaintiff brings this action on behalf of himself, and on behalf of all others similarly situated, as a class action pursuant to California Code of Civil Procedure § 382.
  - 24. Plaintiff seeks to represent the following class:
    All persons or entities in the State of California who purchased Microsoft Surface tablet computers running the Windows RT operating system for purposes other than resale or distribution at any time within the four years preceding the filing of this Complaint.

25.

- Plaintiff also seeks to represent a "CLRA Subclass" defined as:

  All persons in the State of California who purchased Microsoft

  Surface tablet computers running the Windows RT operating

  system for personal, family or household use within the four years

  preceding the filing of this Complaint.
- 26. This Class Action meets the statutory prerequisites for the maintenance of a Class Action as set forth in California Code of Civil Procedure § 382.
- 27. Numerosity: The number of class members is great, believed to be hundreds of consumers located throughout the State of California. Knowledge of the precise number of class members is presently within Defendant's sole control. It therefore is impractical to join each class member as a named plaintiff. Accordingly, utilization of a class action is the most economically feasible means of determining the merits of this litigation.
- 28. <u>Ascertainability</u>: Despite the size of the proposed classes, the class members are readily ascertainable through an examination of Microsoft's purchase records.
- 29. <u>Common Questions Predominate</u>: Common questions of fact and of law predominate over individual issues which may affect individual Class members. These questions of law and fact include, but are not limited to:
  - Whether Defendant's advertising, marketing, product packaging, and other promotional materials were untrue, misleading, or reasonably likely to deceive;
  - Whether Defendant knew that its representations and/or omissions
     regarding the Surface RT tablets' storage capacity were false or misleading,
     but continued to make them;
  - Whether Defendant's failure to disclose the amount of storage space consumed by the Windows RT operating system was a material fact;
  - d. Whether Defendant's conduct violated the California Consumer Legal Remedies Act;
  - e. Whether Defendant's conduct violated California Business and Professions

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persons to litigate their claims in the manner that is most efficient and economical for the parties and judicial system. Further, if each consumer were required to file an individual lawsuit, the corporate defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior legal and financial resources. Class treatment is also superior because it will obviate the need for unduly duplicative litigation that might result inconsistent or varying adjudications with respect to individual Class members against Defendant.

- 34. <u>Manageability</u>: Although the number of class members is great, believed to be hundreds of consumers, the matter is manageable as a class action and the evidence required to establish liability and prove damages is readily available.
- 35. Without Class certification and determination of declaratory, injunctive, statutory and other legal questions within the class format, prosecution of separate actions by individual members of the Class will create the risk of:
  - a. Inconsistent or varying adjudications with respect to individual members of the
     Class which would establish incompatible standards of conduct for the parties
     opposing the Class; or
  - b. Adjudication with respect to individual members of the Class which would as a practical matter be dispositive of the interests of the other members not party to the adjudication or substantially impair or impede their ability to protect their interests.
- 36. Microsoft has acted or refused to act on the grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the Class.

### FIRST CAUSE OF ACTION:

### VIOLATION OF CALIFORNIA CONSUMER LEGAL REMEDIES ACT

(Cal. Civ. Code § 1750 et seq.)

### (By Plaintiff and the CLRA Subclass Against Defendants)

- 37. Plaintiff incorporates by reference all paragraphs previously alleged, as if fully set forth herein.
  - . 38. The Consumers Legal Remedies Act ("CLRA") applies to Defendant's actions and

COMPLAINT

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any person . . . corporation or association, or any employee thereof with intent directly or indirectly to dispose of . . . personal property . . . or anything of any nature whatsoever ... to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatsoever, including over the Internet, any statement, concerning that . . . personal property . . . or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable case should be known, to be untrue or misleading. . . ."

California Business & Professions Code §§ 17500 et seq. makes it "unlawful for

- 49. This cause of action is brought on behalf of Plaintiff individually and on behalf all consumers similarly situated who at any time within the four years preceding the filing of this Complaint purchased a Surface RT tablet after having been exposed to Defendants' advertising statements set forth herein. Plaintiff has standing to pursue this claim, as he relied on Defendant's false advertising and has suffered injury in fact and has lost money as a result of Defendants' false advertising and unfair business practices.
- 50. As alleged above, Defendant has engaged in a systematic campaign of advertising and marketing Surface RT tablets as possessing either 32 GB or 64 GB of storage capacity. In connection with the sale of its Surface RT tablets, Defendant disseminated or caused to be disseminated false, misleading, and deceptive advertising regarding storage capacity to the general public through various forms of media, including but not limited to product packaging, product displays, labeling, advertising and marketing. However, Defendant knew or reasonably should have known that the Surface RT tablets do not possess the advertised storage space.
- 51. Defendant's actions constitute deceptive advertising within the meaning of California Business and Professions Code §§ 17500, et seq., because its advertising was likely to, and did, deceive Plaintiff and other reasonable consumers.
- 52. As a proximate result of Defendant's conduct, Plaintiff and members of the Class were exposed to these misrepresentations, omissions and partial disclosures, purchased Surface

COMPLAINT

RT tablet in reliance on these misrepresentations, omissions and partial disclosures, and suffered monetary loss as a result. They would not have purchased the Surface RT tablets, or would have paid significantly less for them, had they known the truth regarding the actual storage capacity.

- 53. Defendant made such misrepresentations despite the fact that it knew or should have known that the statements were false, misleading, and/or deceptive. Plaintiff and members of the Class are entitled to restitution of such monies in an amount to be established by proof at the time of trial.
- 54. There were reasonably available alternatives to further Defendant's legitimate business interests, other than the conduct described herein.
- 55. On information and belief, Plaintiff alleges that Defendant has failed and refused, and in the future will fail and refuse, to cease its deceptive advertising practices. Plaintiff is informed and believes and thereon alleges that Defendant will continue to do those acts unless this Court orders Defendant to cease and desist pursuant to California Business and Professions Code section 17535.
- 56. Pursuant to Business and Professions Code sections 17203 and 17535, Plaintiff and the members of the Classes seek an order of this Court enjoining Defendant from continuing to engage, use, or employ the above-described practices in advertising the sale of Surface RT tablets. Likewise, Plaintiff and the members of the Classes seek an order requiring Defendant to make full corrective disclosures to correct its prior misrepresentations, omissions, failures to disclose, and partial disclosures.
- 57. Additionally, Plaintiff requests an order awarding Plaintiff and the Class members restitution of the money wrongfully acquired by Defendant in connection with the false and misleading advertising described above.

# THIRD CAUSE OF ACTION UNFAIR BUSINESS PRACTICES IN VIOLATION OF

### CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200, et seq.

58. Plaintiff incorporates by reference all paragraphs previously alleged, as if fully set forth herein.

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COMPLAIN'	I

- 59. California Business & Professions Code § 17200 provides that "unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice." Plaintiff has standing to pursue this claim because he relied on Defendant's misrepresentations and omissions, suffered injury in fact and has lost money or property as a result of Defendant's unfair business practices.
- 60. As alleged above, Defendant has engaged in a systematic campaign of selling, distributing, advertising, and marketing Surface RT tablets as possessing either 32 GB or 64 GB of storage capacity.
- 61. Defendant systematically conceals, omits and fails to disclose that approximately 16 GB of the advertised storage capacity of its Surface RT tablets is actually consumed by the Windows RT operating system and is therefore inaccessible and unavailable to the purchaser for storing files.
- 62. Defendant knew, or should have known, that its misrepresentations, omissions, failure to disclosure and/or partial disclosures omit material facts and are likely to deceive a reasonable consumer.
- 63. Defendant continued to make such misrepresentations despite the fact it knew or should have known that its conduct was misleading and deceptive.
- 64. Plaintiff relied on Defendant's misrepresentations, omissions, failures to disclose and/or partial disclosures in deciding whether to purchase his Surface RT tablet.
- 65. As a proximate result of Defendant's conduct, Plaintiff and members of the Class were exposed to these misrepresentations and omissions, purchased a Surface RT tablet in reliance on these misrepresentations, and suffered monetary loss as a result. They would not have purchased said products, or would have paid significantly less for them, had they known the truth regarding their actual storage capacity.
- 66. Defendant made such misrepresentations and omissions despite the fact that they knew or should have known that the statements were false, misleading, and/or deceptive.
- 67. Defendant's business practices are fraudulent and/or deceptive within the meaning of Business and Professions Code §§ 17200, et seq. because Defendant's advertising, marketing,

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 product packaging, labeling, and product displays deceptively represent the Surface RT tablets' storage capacity and fails to disclose that 16 GB of storage space is consumed by the Windows RT operating system. As a result, Defendant's misrepresentations and omissions are likely to deceive reasonable consumers and members of the public regarding the Surface RT tablets' storage capacity.

- 68. Defendant's business practices, as alleged herein, are unfair and misleading within the meaning of Business and Professions Code §§ 17200 et seq. because the harm caused to the public as a result of such practices far outweighs any benefit conferred.
- 69. Defendant's business practices, as alleged herein, are unlawful within the meaning of Business and Professions Code §§ 17200 et seq. because they constitute violations of Business and Professions Code §§ 17500, et seq. and California Civil Code § 1750 et seq. ("Consumer Legal Remedies Act"), as alleged above.
- 70. As a direct and proximate result of Defendant's unlawful and fraudulent acts, Plaintiff and Class members have suffered injury in fact and lost money.
- 71. Defendant continues to engage in the above-described deceptive acts and/or practices. Defendant's unlawful, unfair and fraudulent business practices as alleged above present a continuing threat to Plaintiff, the Class, and members of the public.
- 72. There were reasonably available alternatives to further Defendant's legitimate business interests, other than the conduct described herein.
- 73. Plaintiff is informed and believes and thereon alleges that Defendant has failed and refused, and in the future will fail and refuse, to cease unfair, fraudulent, or deceptive practices. Plaintiff is informed and believes and thereon alleges that Defendant will continue to do those acts unless this Court orders Defendants to cease and desist pursuant to California Business and Professions Code section 17203.
- 74. Pursuant to Business & Professions Code §§ 17203 and 17535, Plaintiff and the members of the Class seek an order of this Court enjoining Defendant from continuing to engage, use, or employ the above-described practices in connection with advertising the sale of the Surface RT tablets. Likewise, Plaintiff and the members of the Classes seek an order requiring Defendant

COMPLAINT

DEMAND FOR JURY TRIAL Plaintiff demands a jury trial in the above-captioned matter on all issues so triable. DATED: November 13, 2012 THE LAW OFFICES OF 5350 Topanga Canyon Boulevard Woodland Hills, California 91364 Phone: (818) 319-9879 .22 

### PLAINTIFF'S AFFIDAVIT OF VENUE UNDER CALIFORNIA CIVIL CODE SECTION 1780(c)

### I, Andrew J. Sokolowski, declare:

- I am the plaintiff in the above-captioned action, I have personal knowledge of the facts set forth herein and, if called as a witness. I could and would testify competently thereto.
  - 2. I am a resident of Los Angeles County, California.
- 3. I viewed Defendant's advertisements, promotional materials, packaging and product displays for the Surface RT tablet computer within Los Angeles County, California.
- 4. I purchased the Surface RT tablet computer discussed in the Complaint from a Microsoft Store located at the Westfield Century City Mall, which is located in Los Angeles County, California.
- 5. I therefore believe that Los Angeles County is the correct venue for this action. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 12th day of November 2012 at Torrance, California.

Andrew / Sobolowifi
Andrew J. Sokolowski

1	PROOF OF SERVICE
2	STATE OF CALIFORNIA COUNTY OF LOS ANGELES
3	I am employed in the County of Los Angeles, State of California. I am over the age of
4	18 and not a party to the within action. My business address is 707 Wilshire Boulevard, Suite 3850, Los Angeles, CA 90017.
5	On the date below, I served the foregoing document(s), described as <b>NOTICE OF</b>
6	REMOVAL OF ACTION PURSUANT TO 28 U.S.C. § 1446 on each of the interested parties in this action.
7 8	☑ By placing ☐ the original ☑ true copies thereof enclosed in sealed envelopes addressed as follows:
9	Rhett T. Francisco  Attorney(s) for Plaintiff
10	The Law Offices of Rhett T. Francisco Andrew Śokolowski 5350 Topanga Canyon Boulevard Woodland Hills, CA 91364
11	Tel: (818) 319-9879
12	BY U.S. MAIL) I placed such envelope in the mail at Los Angeles California. The
13	envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with
14	the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage
	thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal
15 16	cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
17	(VIA OVERNIGHT DELIVERY) I deposited in a box or other facility maintained
18	by Federal Express, an express carrier service, or delivered to a courier or driver authorized by said express carrier service to receive documents, a true copy of the
19	foregoing document, in an envelope designated by said express service carrier, with delivery fees paid or provided for.
	☐ (VIA MESSENGER SERVICE) By placing them in an envelope or package
20	addressed to the person(s) at the address(es) listed above and providing them to a professional messenger service for hand delivery.
21	procession messenger services for mand delivery.
22	(FEDERAL) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.
23	Court at whose direction the service was made.
24	Executed on December 12, 2012, at Los Angeles, California.
25	HELEN HSIAO
26	(Type or Print Name) Signature
27	
28	

## UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

### NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Margaret M. Morrow and the assigned discovery Magistrate Judge is Fernando M. Olguin.

The case number on all documents filed with the Court should read as follows:

CV12- 10641 MMM (FMOx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

### NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Tilea	, a copy or this houce must be ser	veu o	n an piamuns).		
Sub	sequent documents must be filed	at the	following location:		
	Western Division 312 N. Spring St., Rm. G-8 Los Angeles, CA 90012		Southern Division 411 West Fourth St., Rm. 1-053 Santa Ana, CA 92701-4516	П	Eastern Division 3470 Twelfth St., Rm. 134 Riverside, CA 92501
Failu	re to file at the proper location will res	ult in y	our documents being returned to you.		

### Case 2:12-cv-10641-R-FMO Document 1 Filed 12/12/12 Page 52 of 54 Page ID #:120

### UNITED STALES DISTRICT COURT, CENTRAL DISTRICL OF CALIFORNIA CIVIL COVER SHEET

I (a) PLAINTIFFS (Check by ANDREW SOKOLOW	ox if you are representing yourself ( SKI	□)	DEFENDANTS MICROSOFT CORPORA	ATION	
☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party) Citizen of			Nhan T. Vu (SBN 189508 WILLENKEN WILSON 1 707 Wilshire Blvd., Suite SHIP OF PRINCIPAL PAR X in one box for plaintiff and PT State  PT State	COH & DELGADO LLP 3850, Los Angeles, CA 900 TIES - For Diversity Case one for defendant.)  F DEF  □ 1 Incorporated or 1 of Business in the	2017 Tel: (213) 955-9240  Is Only  PTF DEF  Principal Place
☐ 2 U.S. Government Defendar	nt <b>V</b> 4 Diversity (Indicate Citize of Parties in Item III)		ect of a Foreign Country 3	of Business in A	· · · · · · · · · · · · · · · · · · ·
IV. ORIGIN (Place an X in or 1 Original Proceeding	red from	Reopened	5 Transferred from another di s' only if demanded in compla	Dist Litig	11
*	ce the U.S. Civil Statute under whice Act § 1750; California Business at the an X in one box only.)  CONTRACT  110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loan (Excl. Veteran's Benefits 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise  REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	TORTS PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Fed. Employers Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle 375 Motor Vehicle 375 Motor Vehicle 375 Personal Injury 380 Marine 396 Personal Injury 397 Personal Injury 398 Asbestos Persor 398 Asbestos Persor 398 Injury Product Liability 398 Asbestos Persor 398 Injury Product Liability 398 Asbestos Persor 398 Injury Product Liability	TORTS PERSONAL PROPERTY ot 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage Product Liability BANKRUPTCY 422 Appeal 28 USC 158 423 Withdrawal 28 USC 157 CIVIL RIGHTS 441 Voting 442 Employment 443 Housing/Accommodations 444 Welfare 445 American with Disabilities - Employment 446 American with Disabilities - Other 440 Other Civil Rights	PRISONER PRISONER PETITIONS 510 Motions to Vacate Sentence Habeas Corpus 530 General 535 Death Penalty 540 Mandamus/ Other 550 Civil Rights 555 Prison Condition FORFEITURE / PENALTY 610 Agriculture 620 Other Food & Drug 625 Drug Related Seizure of	LABOR  710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 730 Labor/Mgmt. Reporting & Disclosure Act 740 Railway Labor Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS 820 Copyrights 830 Patent 840 Trademark SOCIAL SECURITY

CV12-10641

FOR OFFICE USE ONLY: Case Number:

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

CV-71 (05/08)

### Case 2:12-cv-10641-R-FMO Document 1 Filed 12/12/12 Page 53 of 54 Page ID #:121

## UNITED STALES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: H If yes, list case number(s):	Has this action been	previously filed in this court a	nd dismissed, remanded or closed? ☑ No ☐ Yes		
VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ✓ No ☐ Yes If yes, list case number(s):					
	. Arise from the sai . Call for determina . For other reasons	ne or closely related transactic tion of the same or substantial would entail substantial duplic	ons, happenings, or events; or ely related or similar questions of law and fact; or eation of labor if heard by different judges; or also is present.		
IX. VENUE: (When completing the					
(a) List the County in this District  ☐ Check here if the government,	t; California County its agencies or emp	outside of this District; State i loyees is a named plaintiff. If	f other than California; or Foreign Country, in which EACH named plaintiff resides. this box is checked, go to item (b).		
County in this District:*  Los Angeles			California County outside of this District; State, if other than California; or Foreign Country		
(b) List the County in this District  ☐ Check here if the government,	; California County its agencies or empl	outside of this District; State it oyees is a named defendant.	f other than California; or Foreign Country, in which <b>EACH</b> named defendant resides. f this box is checked, go to item (c).		
County in this District:*			California County outside of this District; State, if other than California; or Foreign Country		
			Washington		
(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.  Note: In land condemnation cases, use the location of the tract of land involved.  County in this District:*  California County outside of this District; State, if other than California; or Foreign Country  Los Angeles					
* Los Angeles, Orange, San Berna	rdino, Riverside, V	entura, Santa Barbara, or S	an Lyis Obispo Counties		
Note: In land condemnation cases, u  X. SIGNATURE OF ATTORNEY	المستست	e tract of land involved	Date December 12, 2012		
Notice to Counsel/Parties: To or other papers as required by labut is used by the Clerk of the Country of the C	he CV-71 (JS-44) C w. This form, appro Court for the purpose	ved by the Judicial Conference of statistics, venue and initiati	nation contained herein neither replace nor supplement the filing and service of pleadings of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed ng the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)		
Key to Statistical codes relating to So	•				
Nature of Suit Code	Abbreviation	Substantive Statement of	Cause of Action		
861	НІА	All claims for health insura Also, include claims by hos program. (42 U.S.C. 1935F	nce benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. pitals, skilled nursing facilities, etc., for certification as providers of services under the F(b))		
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)			
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))			
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))			
864	SSID	All claims for supplemental Act, as amended.	security income payments based upon disability filed under Title 16 of the Social Security		
865	RSI	All claims for retirement (ol U.S.C. (g))	d age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42		

1	PROOF OF SERVICE					
2	STATE OF CALIFORNIA COUNTY OF LOS ANGELES					
3						
4	I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 707 Wilshire Boulevard, Suite 3850, Los Angeles, CA 90017.					
5	On the date below, I served the foregoing document(s), described as CIVIL COVER					
6	SHEET on each of the interested parties in this action.					
7	☑ By placing ☐ the original ☑ true copies thereof enclosed in sealed envelopes addressed as follows:					
8	Rhett T. Francisco Attorney(s) for Plaintiff					
9	The Law Offices of Rhett T. Francisco <i>Andrew Śokolowski</i> 5350 Topanga Canyon Boulevard Woodland Hills, CA 91364					
11	Tel: (818) 319-9879					
	☐ (BY U.S. MAIL) I placed such envelope in the mail at Los Angeles, California. The					
12	envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with					
13	the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage					
14	thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal					
15	cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.					
16						
17 18	by Federal Express, an express carrier service, or delivered to a courier or driver authorized by said express carrier service to receive documents, a true copy of the foregoing document, in an envelope designated by said express service carrier, with					
19	delivery fees paid or provided for.					
20	(VIA MESSENGER SERVICE) By placing them in an envelope or package addressed to the person(s) at the address(es) listed above and providing them to a professional messenger service for hand delivery.					
21	processional messanger service for hand derivery.					
22	(FEDERAL) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.					
23						
24	Executed on December 12, 2012, at Los Angeles, California.					
25	HELEN HSIAO					
26	(Type or Print Name) Signature					
27						
28						